a petition to have him adjudged a bankrupt. BANKRUPTCY ACT, § 59b. But must a petitioning creditor have debts provable at the time the act of bankruptcy was committed? Cases based on the earlier statutes, which are somewhat similar, have generally, though not uniformly, answered the question in the affirmative. *De Gols* v. *Ward*, Cas. t. Talb. 243, 1 Bro. P. C. 536; *Toms* v. *Mytton*, 2 Str. 744; *Ex Parte Charles*, 14 East 197, 16 Vesey 256. "Creditor" is defined in § 1a (9) of the BANKRUPTCY ACT as "anyone who owns a demand or claim provable in bankruptcy", but the question remains: "When is it to be provable?" Opponents of the instant case would admit that "taken literally" any of the statutes "would permit a petition to be maintained by a creditor whose debt arose after the commission of the act of bankruptcy complained of", but they would limit this literal interpretation "by the familiar principle, that no one ought to be allowed to complain of that which does not injure him". *In re Muller*, Fed. Cas. No. 9912; *In re Burk*, Fed. Cas. No. 2156. An analogy is drawn between a petition in bankruptcy and a creditor's bill to set aside fraudulent conveyances. *In re Stone*, 206 Fed. 356. The complainant in the case of a fraudulent conveyance must have been a creditor at the time the conveyance was made. *Horbach* v. *Hill*, 112 U. S. 144. A majority of the decided cases agree in applying the same test to petitioning creditors. *Beers* v. *Hanlin*, 99 Fed. 695; *In re Brinckmann*, 103 Fe. 65; *In re Callison*, (Dist. Ct.), 130 Fed. 987, aff'd *sub nom.*, *Brake* v. *Callison*, 129 Fed. 201, 63 C. C. A. 359; BRANDENBURG, BANKR., § 123; COLLIER, BANK., (11th ed.), 843. The alleged analogy breaks down, however, where the acts of bankruptcy have nothing to do with giving preferences or transferring or concealing assets. It is further open to objection because the object by the creditor's bill differs materially from that of a petition in bankruptcy. The creditor's bill is to reward only those who strike down the conveyance while the petitioning creditor in bankruptcy obtains no advantage over any other creditor. It would seem unnecessary, therefore, to complicate matters by departing from a literal interpretation of the statute. *In re Hanyan*, 180 Fed. 498, aff'd without opinion, 181 Fed. 1021; BLACK, BANKR., § 153; LOVELAND, BANKR., § 181; REMINGTON, BANKR., § 214.

BILLS AND NOTES—INTEREST—UNCONDITIONAL PROMISE TO PAY—NEGOTIABILITY—"CERTAIN."—A promissory note contained the following provision: "With interest at 9 per cent per annum, *payable annually* from date until paid: Provided, however, if the note is paid on or before maturity, interest shall only be 7 per cent". *Held*, that it did not contain an unconditional promise to pay a sum certain in money within the provisions of the UNIFORM NEGOTIABLE INSTRUMENTS LAW. *Union Nat. Bank* v. *Mayfield*, (Okl. Sup. Ct., 1918), 169 Pac. 626.

Provisions for the payment of interest after the maturity of a note, where no interest was required before maturity; or for the payment of an increased rate of interest after the maturity of a note, are generally held not to affect the negotiability of the note. *Towne* v. *Rice*, 122 Mass. 67; *De Hass* v. *Roberts*, 59 Fed. 853; *Hollinshead* v. *John Stuart & Co.*, 8 N. D. 35; *Merrill* v. *Hurley*, 6 S. D. 592; *Citizens' Sav. Bank* v. *Landis*, 37 Okl. 530. Several cases

have held that provisions for the payment of interest from date, if not paid at maturity, where no interest was required before maturity or for the payment of an increased rate of interest from date, if not paid at maturity, do not affect the negotiability of a note. *Hope* v. *Barker,* 43 Mo. App. 632 (affirmed in 112 Mo. 338); *Parker* v. *Plymell,* 23 Kan. 402; *Clark* v. *Skeen,* 61 Kan. 526; *Crump* v. *Berdan,* 97 Mich. 293. In *Smith* v. *Crane,* 33 Minn. 144, the provision was precisely similar to that in the instant case, calling for "interest at 10% per annum from date until paid, 7% if paid when due"; and the court held the provision to be the same in effect as if it had reserved the lower rate of interest, with a provision that if the indebtedness was not paid at maturity, interest should run at the higher rate, that the increase, being a penalty, would be invalid and the note would in law draw 7% per annum both before and after maturity, and was negotiable. This decision was not under the UNIFORM NEGOTIABLE INSTRUMENTS LAW, but under the common law. In *Hegeler* v. *Comstock,* 1 S. D. 138, a note providing for the payment of a certain sum "with interest from date until paid at the rate of 10% per annum, 8% if paid when due" was held to be non-negotiable because uncertain as to the rate of interest. This decision was under a code provision defining a negotiable instrument as a written promise for the payment of a certain sum of money, payable without any condition not certain of fulfillment. In *Randolph* v. *Hudson,* 12 Okl. 516, a note containing a promise to pay a certain sum of money "with interest at the rate of 12% from date if not paid at maturity" was held non-negotiable. In *Security Trust & Sav. Bank* v. *Gleichmann,* (Okl. S. C. 1915), 150 Pac. 908, a note, dated May 1, 1905, and providing: "with interest at 8% from Nov. 1, 1905, until paid, interest from date if not paid when due" was held to be negotiable. The court in the instant case expressly overrules *Security Trust & Sav. Bank* v. *Gleichmann, supra;* and upholds *Randolph* v. *Hudson, supra.* While the court in the instant case has undoubtedly arrived at a sound conclusion, it seems to have failed to notice a possible distinction between the principal case and some of the other cases apparently in conflict with it. The provision in the instant case calls for *payment* of interest *annually;* consequently, when such annual payment is made, the note is presumptively discharged *pro tanto,* but, should the note not be paid at maturity, the maker, having paid the lower rate, would owe the difference between that and the higher rate. Therefore, the sum to be paid is uncertain, and cannot be made certain until payment is actually made. In many of the other cases, the notes which provide for payment of a higher rate of interest from date, if not paid at maturity, do not require annual payment of the interest; and, hence, the amount to be paid is certain; either the face value of the note plus the lower rate of interest, or the face value of the note plus the higher rate of interest, depending on whether payment is made at maturity or after maturity.

BILLS AND NOTES — MATERIAL ALTERATION — ENDORSER'S LIABILITY.—Defendant endorsed a promissory note and returned it to the maker with a blank left for the payee's name. The maker inserted a name and later, failing to secure a loan from that party, added the words "or bearer" and dis-